

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AARON RALPH,

Petitioner,

v.

DEBRA SCUTT,

Respondent.

CASE NO. 2:11-CV-11284
HONORABLE GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

**ORDER DENYING MOTION FOR RECONSIDERATION [dkt. #17], AND MOTION TO
PROCEED ON APPEAL IN FORMA PAUPERIS [dkt. #20]**

On April 9, 2012, the court issued an opinion and order granting Respondent's motion for summary judgment and denying Petitioner's application for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. In the same order the court also denied Petitioner a certificate of appealability and permission to proceed on appeal in forma pauperis. Petitioner has now filed what he labels a motion for certificate of appealability and an application to proceed in forma pauperis on appeal. Because the Court has already denied Petitioner a certificate and IFP status, the Court construes these motions as seeking reconsideration.

Local Rule 7.1(h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F. Supp. 2d 628, 632 (E.D. Mich. 2001). The movant must

not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof. A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *Witzke v. Hiller*, 972 F. Supp. 426, 427 (E.D. Mich. 1997).

In the present case, the arguments raised by Petitioner in his motions were already raised, either explicitly or by reasonable implication, in Petitioner's application for writ of habeas corpus and response to Respondent's motion for summary judgment and denied by the Court in its opinion granting summary judgment. Because Petitioner is merely presenting issues which were already ruled upon by the court, either expressly or by reasonable implication, when the court denied his petition for writ of habeas corpus, the motion for reconsideration will be denied. See *Hence v. Smith*, 49 F. Supp. 2d 547, 553 (E.D. Mich. 1999).

Accordingly, **IT IS ORDERED** that Petitioner's "Motion for Certificate of Appealability" [Dkt. # 17 and "Application to Proceed on Appeal in Forma Pauperis" [Dkt. # 20] are **DENIED**.

Dated: May 29, 2012

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on May 29, 2012, by electronic and/or ordinary mail and also to Aaron Ralph at G. Robert Cotton Correctional Facility, 3500 N. Elm Road, Jackson, MI 49201.

s/Josephine Chaffee
Deputy Clerk